IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

Bail Appl..No. 6282 of 2007()

CRIME NO. 366/07 OF PARAPPANANGADI POLICE STATION

PETITIONERS/ACCUSED

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1. P.P.MOIDEENKUTTY, S/O ATHAN KUTTY,
   AGED 41, RESIDING AT PARIPARAMBATH HOUSE,
   ULLANAM, PALATHINGAL P.O.,
   PARAPPANANGADI, MALAPPURAM DISTRICT.

2. SHAMSUDEEN P., S/O UMMER,
   AGED 25, RESIDING AT PANATHARAKATH HOUSE,
   ULLANAM, PALATHINGAL P.O.,
   PARAPPANANGADI, MALAPPURAM DISTRICT.

BY ADV. SRI.HARISH R. MENON
SRI.K.T.SHYAMKUMAR

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6282 of 2007

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Dated this the 17th day of October, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 3 and 4. The gravamen of the allegations against the petitioners is that they, along with others, are members of an unlawful assembly of persons, who deterred and caused illegal obstruction to the official duty of the officials of the Revenue Department. The alleged incident took place on 30.9.2007. Accused 1 and 2 have already been arrested. The petitioners are not named in the F.I.R. It is on the basis of the confession statement of the co-accused, who have already been arrested, that the petitioners have been arrayed as accused. Investigation is in progress. The petitioners apprehend imminent arrest on the allegations raised for offences punishable, inter alia, under Sections 353 and 332 r/w. 149 I.P.C.

2. The petitioners have a totally different story to advance. According to them, an autorikshaw, which was proceeding along the public road, was intercepted by a group of persons, who came in a private care. The autorikshaw driver was thrown out of the vehicle

and he suffered injuries. Thinking that those who came in the car were miscreants, trying to attack the driver of the autorikshaw, local people collected. The explanation offered by the persons who came in the car did not inspire confidence and therefore there was some confusion at that spot. Later, a person, describing himself to be the Tahsildar, came to the scene. His words also did not inspire confidence. It is later that the police came and the people knew that the persons who came in the car were revenue officials authorised to intercept vehicles transporting river sand. The petitioners have no culpable intention. They do not deserve to endure the trauma of arrest and detention. Anticipatory bail may be granted to the petitioners, it is prayed.

3. Notice was given. The case diary has been made available for my perusal. The confession statements of the accused, who have already been arrested, have been read over to me. The learned Prosecutor does not oppose the application. Appropriate conditions may be imposed, he submits. In the circumstances of this case, to which I have made a brief reference, I am satisfied that this is a fit case where directions under Section 438 Cr.P.C. can be issued in favour of the petitioners. Subject to appropriate conditions, anticipatory bail can be granted to the petitioners.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 24.10.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 25.10.07 and 26.10.2007 and thereafter as and when directed by the Investigating Officer in writing to do so.

(d) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 24.10.076 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(b) If the petitioners were arrested prior to their surrender on 24.10.2007 as directed in clause (1) above, they shall be released on bail on

their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 24.10.2007.

(R. BASANT)
Judge

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